

Senate Bill No. 460

CHAPTER 931

An act to amend Section 1941.1 of the Civil Code, and to amend Sections 17961, 17980, and 124130 of, and to add Sections 17920.10, 105251, 105252, 105253, 105254, 105255, 105256, and 105257 to, the Health and Safety Code, relating to lead abatement.

[Approved by Governor September 26, 2002. Filed
with Secretary of State September 26, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 460, Ortiz. Lead abatement.

(1) The State Housing Law deems a building or portion thereof to be substandard if certain conditions exist.

This bill would deem a building or portion thereof to be in violation of the State Housing Law if it contains lead hazards, as specified, that are likely to endanger the health of the public or the occupants.

(2) The State Housing Law requires the housing department or, if there is no housing department, the health department, of every city, county, or city and county, or a specified environmental agency to enforce within its jurisdiction all of the State Housing Law, the building standards published in the State Building Standards Code, and other specified rules and regulations. A violation of the State Housing Law, related published building standards, or any other rule or regulation adopted pursuant to the law is a misdemeanor.

This bill instead would require the housing or building department or, if there is no building department, the health department, of every city, county, or city and county, or a specified environmental agency to enforce within its jurisdiction all of the State Housing Law, the building standards published in the State Building Standards Code, and other specified rules and regulations. It would authorize the State Department of Health Services to enforce the provisions relating to lead hazards if specified conditions are met. By creating a new crime and imposing additional duties upon local officials, this bill would impose a state-mandated local program.

(3) The State Housing Law requires the enforcement agency to institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation of the law, published building standards, specified rules and regulations, or nuisance. It also requires an enforcement agency, when it has determined that a building is a

substandard building, to commence proceedings to abate the violation by repair, rehabilitation, vacation, or demolition of the building.

This bill would additionally require an enforcement agency, when it has determined that a building contains lead hazards, as described above, to commence proceedings to abate the violation by repair, rehabilitation, vacation, or demolition of the building.

(4) Existing law requires the State Department of Health Services to implement and administer a program that meets federal requirements regarding lead-based paint hazards, and requires the adoption of regulations regarding, among other things, the accreditation of providers of health and safety training to employees who engage in or supervise lead-related construction work.

This bill would make it a crime for a person to engage in specified acts relating to lead-related construction courses, and lead-related construction work, abatement, or lead hazard evaluation. It would also enact related inspection provisions.

The bill would also permit the department or a local enforcement agency, whenever it determines that a condition at a location or premises, or the activity of any person at the location or premises, is creating or has created a lead hazard at the location or premises, to order the owner of the location or premises to abate the lead hazard or to order the person whose activity is creating or has created the hazard, to cease and desist. It would make it unlawful to refuse to obey any order issued under this provision, with a violation of this requirement being an infraction punishable by a fine of not more than \$1,000.

(5) Under existing law, a portion of the moneys collected for criminal offenses constitute state penalties, a portion of which is retained by each county and a portion of which is deposited into the State Penalty Fund, to be allocated as prescribed.

This bill would provide instead that all state penalties collected for violations of the provisions described in (4) shall be deposited in the General Fund.

(6) Existing law requires all medical laboratories to report to the State Department of Health Services each detected case of a blood lead level that exceeds specified parameters.

This bill would revise and recast these reporting requirements.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.



This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 1941.1 of the Civil Code is amended to read:

1941.1. A dwelling shall be deemed untenable for purposes of Section 1941 if it substantially lacks any of the following affirmative standard characteristics or is a residential unit described in Section 17920.3 or 17920.10 of the Health and Safety Code:

(a) Effective waterproofing and weather protection of roof and exterior walls, including unbroken windows and doors.

(b) Plumbing or gas facilities that conformed to applicable law in effect at the time of installation, maintained in good working order.

(c) A water supply approved under applicable law that is under the control of the tenant, capable of producing hot and cold running water, or a system that is under the control of the landlord, that produces hot and cold running water, furnished to appropriate fixtures, and connected to a sewage disposal system approved under applicable law.

(d) Heating facilities that conformed with applicable law at the time of installation, maintained in good working order.

(e) Electrical lighting, with wiring and electrical equipment that conformed with applicable law at the time of installation, maintained in good working order.

(f) Building, grounds, and appurtenances at the time of the commencement of the lease or rental agreement, and all areas under control of the landlord, kept in every part clean, sanitary, and free from all accumulations of debris, filth, rubbish, garbage, rodents, and vermin.

(g) An adequate number of appropriate receptacles for garbage and rubbish, in clean condition and good repair at the time of the commencement of the lease or rental agreement, with the landlord providing appropriate serviceable receptacles thereafter and being responsible for the clean condition and good repair of the receptacles under his or her control.

(h) Floors, stairways, and railings maintained in good repair.

SEC. 1.5. Section 17920.10 is added to the Health and Safety Code, to read:

17920.10. (a) Any building or portion thereof including any dwelling unit, guestroom, or suite of rooms, or portion thereof, or the



premises on which it is located, is deemed to be in violation of this part as to any portion that contains lead hazards. For purposes of this part, “lead hazards” means deteriorated lead-based paint, lead-contaminated dust, lead-contaminated soil, or disturbing lead-based paint without containment, if one or more of these hazards are present in one or more locations in amounts that are equal to or exceed the amounts of lead established for these terms in Chapter 8 (commencing with Section 35001) of Division 1 of Title 17 of the California Code of Regulations or by this section and that are likely to endanger the health of the public or the occupants thereof as a result of their proximity to the public or the occupants thereof.

(b) In the absence of new regulations adopted by the State Department of Health Services in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) further interpreting or clarifying the terms “deteriorated lead-based paint,” “lead-based paint,” “lead-contaminated dust,” “containment,” or “lead-contaminated soil,” regulations in Chapter 8 (commencing with Section 35001) of Division 1 of Title 17 of the California Code of Regulations adopted by the State Department of Health Services pursuant to Sections 105250 and 124150 shall interpret or clarify these terms. If the State Department of Health Services adopts new regulations defining these terms, the new regulations shall supersede the prior regulations for the purposes of this part.

(c) In the absence of new regulations adopted by the State Department of Health Services in accordance with the rulemaking provisions of the Administrative Procedure Act defining the term “disturbing lead-based paint without containment” or modifying the term “deteriorated lead-based paint,” for purposes of this part “disturbing lead-based paint without containment” and “deteriorated lead-based paint” shall be considered lead hazards as described in subdivision (a) only if the aggregate affected area is equal to or in excess of one of the following:

- (1) Two square feet in any one interior room or space.
- (2) Twenty square feet on exterior surfaces.
- (3) Ten percent of the surface area on the interior or exterior type of component with a small surface area. Examples include window sills, baseboards, and trim.

(d) Notwithstanding subdivision (c), “disturbing lead-based paint without containment” and “deteriorated lead-based paint” shall be considered lead hazards, for purposes of this part, if it is determined that an area smaller than those specified in subdivision (c) is associated with



a person with a blood lead level equal to or greater than 10 micrograms per deciliter.

(e) If the State Department of Health Services adopts regulations defining or redefining the terms “deteriorated lead-based paint,” “lead-contaminated dust,” “lead-contaminated soil,” “disturbing lead-based paint without containment,” “containment,” or “lead-based paint,” the effective date of the new regulations shall be deferred for a minimum of three months after their approval by the Office of Administrative Law and the regulations shall take effect on the next July 1 or January 1 following that three-month period. Until the new definitions apply, the prior definition shall apply.

SEC. 2. Section 17961 of the Health and Safety Code is amended to read:

17961. (a) The housing or building department or, if there is no building department acting pursuant to this section, the health department of every city, county, or city and county, or any environmental agency authorized pursuant to Section 101275, shall enforce within its jurisdiction all of this part, the building standards published in the State Building Standards Code, and the other rules and regulations adopted pursuant to this part pertaining to the maintenance, sanitation, ventilation, use, or occupancy of apartment houses, hotels, or dwellings. The health department or the environmental agency may, in conjunction with a local housing or building department acting pursuant to this section, enforce within its jurisdiction all of this part, the building standards published in the State Building Standards Code, and the other rules and regulations adopted pursuant to this part pertaining to the maintenance, sanitation, ventilation, use, or occupancy of apartment houses, hotels, or dwellings. Each department and agency, as applicable, shall coordinate enforcement activities with each other and interested departments and agencies in order to avoid unnecessary duplication.

(b) Notwithstanding subdivision (a), the health department of every city, county, or city and county, or any environmental agency authorized pursuant to Section 101275 may, in addition to the local building department, if any, enforce within its jurisdiction the provisions of Section 17920.10 and shall coordinate enforcement activities with other interested departments and agencies in order to avoid unnecessary duplication.

(c) The State Department of Health Services may enforce Section 17920.10 if any local agency or department specified in subdivisions (a) and (b) enters into a written agreement, approved and published pursuant to local government procedures, with the State Department of Health Services to enforce that section, or provides the State Department of Health Services with a written request to enforce that section for a



specific case following the identification of a lead poisoned child in that jurisdiction.

SEC. 3. Section 17980 of the Health and Safety Code is amended to read:

17980. (a) If any building is constructed, altered, converted, or maintained in violation of any provision of, or of any order or notice that gives a reasonable time to correct that violation issued by an enforcement agency pursuant to, this part, the building standards published in the California Building Standards Code, or other rules and regulations adopted pursuant to this part, or if a nuisance exists in any building or upon the lot on which it is situated, the enforcement agency shall, after 30 days' notice to abate the nuisance, institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or nuisance.

(b) (1) Whenever the enforcement agency has inspected or caused to be inspected any building and has determined that the building is a substandard building or a building described in Section 17920.10, the enforcement agency shall commence proceedings to abate the violation by repair, rehabilitation, vacation, or demolition of the building. The enforcement agency shall not require the vacating of a residential building unless it concurrently requires expeditious demolition or repair to comply with this part, the building standards published in the California Building Standards Code, or other rules and regulations adopted pursuant to this part. The owner shall have the choice of repairing or demolishing. However, if the owner chooses to repair, the enforcement agency shall require that the building be brought into compliance according to a reasonable and feasible schedule for expeditious repair. The enforcement agency may require vacation and demolition or may itself vacate the building, repair, demolish, or institute any other appropriate action or proceeding, if any of the following occur:

(A) The repair work is not done as scheduled.

(B) The owner does not make a timely choice of repair or demolition.

(C) The owner selects an option which cannot be completed within a reasonable period of time, as determined by the enforcement agency, for any reason, including, but not limited to, an outstanding judicial or administrative order.

(2) In deciding whether to require vacation of the building or to repair as necessary, the enforcement agency shall give preference to the repair of the building whenever it is economically feasible to do so without having to repair more than 75 percent of the dwelling, as determined by the enforcement agency, and shall give full consideration to the needs for housing as expressed in the local jurisdiction's housing element.



(c) (1) Notwithstanding subdivision (b) and notwithstanding local ordinances, tenants in a residential building shall be provided notice of any violation described in subdivision (a) that affects the health and safety of the occupants and that violates Section 1941.1 of the Civil Code, an order of the code enforcement agency issued after inspection of the premises declaring the dwelling to be in violation of any provision described in subdivision (a), the enforcement agency's decision to repair or demolish, or the issuance of a building or demolition permit following the abatement order of an enforcement agency.

(2) Notice pursuant to this subdivision shall be provided to each affected residential unit by the enforcement agency that issued the order or notice, in the manner prescribed by subdivision (a) of Section 17980.6.

(d) All notices issued by the enforcement agency to correct violations or to abate nuisances shall contain a provision notifying the owner that, in accordance with Sections 17274 and 24436.5 of the Revenue and Taxation Code, a tax deduction may not be allowed for interest, taxes, depreciation, or amortization paid or incurred in the taxable year. In addition, in Los Angeles County, the notice shall contain a provision notifying the owner that within 10 days of recordation of a notice of substandard conditions or similar document, the owner is required to comply with Section 17997.

(e) The enforcement agency may charge the owner of the building for its postage or mileage cost for sending or posting the notices required to be given by this section.

SEC. 4. Section 105251 is added to the Health and Safety Code, to read:

105251. For purposes of this chapter, the following definitions shall apply:

(a) The following terms shall have the same meaning as contained in Chapter 8 (commencing with Section 35001) of Division 1 of Title 17 of the California Code of Regulations adopted by the State Department of Health Services pursuant to Sections 105250 and 124160: "abatement," "accredited training provider," "certificate," "course completion form," "DHS-approved course," "lead hazard," "lead hazard evaluation," "lead related construction work," "public building," and "residential building."

(b) "Department" means the State Department of Health Services.

(c) "Local enforcement agency" means the health department, environmental agency, housing department, or building department of any city, county, or city and county.

SEC. 5. Section 105252 is added to the Health and Safety Code, to read:



105252. (a) It is unlawful for any person to offer lead-related construction courses to meet department certificate requirements unless that person is an accredited training provider as specified in Chapter 8 (commencing with Section 35001) of Division 1 of Title 17 of the California Code of Regulations, as adopted pursuant to Sections 105250 and 124160.

(b) It is unlawful for any person to issue, or offer to issue, a lead-related construction course completion form to any person except upon successful completion by that person of a DHS-approved course.

(c) The department or any local enforcement agency may, consistent with Section 17972, enter, inspect, and photograph any premises or facilities, and inspect and copy any business record, where any accredited training provider, or any person who offers lead-related construction courses or issues lead-related construction course completion forms, conducts business to determine whether the person is complying with this section.

(d) It is unlawful for any person who is an accredited training provider or who offers lead-related construction courses or issues lead-related construction completion forms, to refuse entry or inspection, the taking of photographs or other evidence, or access to copying of any record as authorized by this section, or to conceal or withhold evidence.

(e) A violation of this section shall be punishable by imprisonment for not more than six months in the county jail, a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine.

SEC. 6. Section 105253 is added to the Health and Safety Code, to read:

105253. (a) Any person issued a certificate by the department to conduct lead-related construction work, abatement, or lead hazard evaluation, shall comply with regulations as specified in Chapter 8 (commencing with Section 35001) of Division 1 of Title 17 of the California Code of Regulations, as adopted pursuant to Sections 105250 and 124160.

(b) It is unlawful for any person to do either of the following:

(1) Falsely represent himself or herself as possessing a certificate issued by the department to conduct lead-related construction work, abatement, or lead hazard evaluation.

(2) Submit false information or documentation to the department in order to obtain or renew a certificate to conduct lead-related construction work, abatement, or lead hazard evaluation.

(c) The department or any local enforcement agency may, consistent with Section 17972, enter, inspect, and photograph any premises or facilities, and inspect and copy any business record, where any person issued a certificate by the department to perform lead-related



construction work conducts business to determine whether the person is complying with this section.

(d) A violation of this section shall be punishable by imprisonment for not more than six months in the county jail, a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine.

SEC. 7. Section 105254 is added to the Health and Safety Code, to read:

105254. (a) The following persons engaged in the following types of lead construction work shall have a certificate:

(1) Persons who receive pay for doing lead hazard evaluations, including, but not limited to, lead inspections, lead risk assessments, or lead clearance inspections, in residential or public buildings.

(2) Persons preparing or designing plans for the abatement of lead-based paint or lead hazards from residential or public buildings.

(3) Persons doing any work designed to reduce or eliminate lead hazards on a permanent basis (to last 20 years or more) from residential or public buildings.

(4) Persons inspecting for lead or doing lead abatement activities in a public elementary school, preschool, or day care center.

(5) Persons doing lead-related construction work in a residential or public building that will expose a person to airborne lead at or above the eight-hour permissible exposure limit of 50 micrograms per cubic meter.

(b) Persons performing routine maintenance and repairs in housing are not required to have a certificate if they are not performing any of the activities listed under subdivision (a).

(c) The department may adopt regulations to modify certification requirements for persons engaged in lead construction work based on changes to state or federal law, or programmatic need.

(d) The department or any local enforcement agency may, consistent with Section 17972, enter, inspect, and photograph any premises where abatement or a lead hazard evaluation is being conducted or has been ordered, enter the place of business of any person who conducts abatement or lead hazard evaluations, and inspect and copy any business record of any person who conducts abatement or lead hazard evaluations to determine whether the person is complying with this section.

(e) A violation of this section shall be punishable by imprisonment for not more than six months in the county jail, a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine.

SEC. 8. Section 105255 is added to the Health and Safety Code, to read:

105255. (a) No person shall perform lead-related construction work on any residential or public building in a manner that creates a lead hazard.



(b) The department and any local enforcement agency may, consistent with Section 17972, enter, inspect, and photograph any premises where lead-related construction work is being performed, enter the place of business of any person who performs lead-related construction work, and inspect and copy any business record of any person who performs lead-related construction work to determine whether the person is complying with this section and any regulations specified in Chapter 8 (commencing with Section 35001) of Division 1 of Title 17 of the California Code of Regulations adopted by the State Department of Health Services pursuant to Sections 105250 and 124160.

(c) Notwithstanding any other provision of law, whenever the department or a local enforcement agency determines that a condition at a location or premises, or the activity of any person at the location or premises, is creating or has created a lead hazard at the location or premises, the department or the local enforcement agency may order the owner of the location or premises to abate or otherwise correct, at the option of the owner, the lead hazard, and may order the person whose activity is creating or has created the lead hazard, to cease and desist and shall give that owner or person a reasonable opportunity to correct.

(d) It is unlawful for any person to refuse or disobey any order issued pursuant to subdivision (c).

(e) A violation of subdivision (d) shall be punishable by a fine not to exceed one thousand dollars (\$1,000). Any penalties under this section shall be in addition to any other penalty or remedy provided by law.

SEC. 9. Section 105256 is added to the Health and Safety Code, to read:

105256. (a) Notwithstanding any other provision of law, whenever the department or a local enforcement agency determines that a condition at a location or premises, or the activity of any person at the location or premises, is creating or has created a lead hazard at the location or premises, the department or the local enforcement agency may order the owner of the location or premises to abate the lead hazard, and may order the person whose activity is creating or has created the lead hazard, to cease and desist.

(b) It is unlawful for any person to refuse to obey any order issued pursuant to this section.

(c) A violation of this section shall be an infraction punishable by a fine not to exceed one thousand dollars (\$1,000). Any penalties under this section shall be in addition to any other penalty or remedy provided by law.

SEC. 10. Section 105257 is added to the Health and Safety Code, to read:



105257. Notwithstanding subdivision (f) of Section 1464 of the Penal Code, any state penalties paid for the violation of this chapter shall be deposited into the General Fund.

SEC. 11. Section 124130 of the Health and Safety Code is amended to read:

124130. (a) A laboratory that performs a blood lead analysis on a specimen of human blood drawn in California shall report the information specified in this section to the department for each analysis on every person tested.

(b) The analyzing laboratory shall report all of the following:

(1) The test results in micrograms of lead per deciliter.

(2) The name of the person tested.

(3) The person's birth date if the analyzing laboratory has that information, or if not, the person's age.

(4) The person's address if the analyzing laboratory has that information, or if not, a telephone number by which the person may be contacted.

(5) The name, address, and telephone number of the health care provider that ordered the analysis.

(6) The name, address, and telephone number of the analyzing laboratory.

(7) The accession number of the specimen.

(8) The date the analysis was performed.

(c) The analyzing laboratory shall report all of the following information that it possesses:

(1) The person's gender.

(2) The name, address, and telephone number of the person's employer, if any.

(3) The date the specimen was drawn.

(4) The source of the specimen, specified as venous, capillary, arterial, cord blood, or other.

(d) The analyzing laboratory may report to the department other information that directly relates to the blood lead analysis or to the identity, location, medical management, or environmental management of the person tested.

(e) If the result of the blood lead analysis is a blood lead level equal to or greater than 10 micrograms of lead per deciliter of blood, the report required by this section shall be submitted within three working days of the analysis. If the result is less than 10 micrograms per deciliter, the report required by this section shall be submitted within 30 calendar days.

(f) Commencing January 1, 2003, a report required by this section shall be submitted by hand, courier, postal mail, facsimile, or electronic

transfer. Commencing January 1, 2005, a report required by this section shall be submitted by electronic transfer.

(g) All information reported pursuant to this section shall be confidential, as provided in Section 100330, except that the department may share the information for the purpose of surveillance, case management, investigation, environmental assessment, environmental remediation, or abatement with the local health department, environmental health agency authorized pursuant to Section 101275, or building department. The local health department, environmental health agency, or building department shall otherwise maintain the confidentiality of the information in the manner provided in Section 100330.

(h) The director may assess a fine up to five hundred dollars (\$500) against any laboratory that knowingly fails to meet the reporting requirements of this section.

(i) A laboratory shall not be fined or otherwise penalized for failure to provide the patient's birth date, age, address, or telephone number if the result of the blood lead analysis is a blood lead level less than 25 micrograms of lead per deciliter of blood, and if all of the following circumstances exist:

(1) The test sample was sent to the laboratory by another medical care provider.

(2) The laboratory requested the information from the medical care provider who obtained the sample.

(3) The medical care provider that obtained the sample and sent it to the laboratory failed to provide the patient's birth date, age, address, or telephone number.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement



does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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